

E-FILED 05-18-2011

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RICARDO VILLANUEVA and ROGELIO
TOPETE,

No. C10-02342 HRL

Plaintiffs,

**ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
AS TO PLAINTIFF ROGELIO TOPETE**

v.

AKKAYA, INC., dba RISTORANTE DON
GIOVANNI, JOHN AKKAYA, DOES 1-10,

[Re: Docket No. 32]

Defendant.

Defendants move for summary judgment as to the sole remaining plaintiff, Rogelio Topete. The basis for the motion is that Topete failed to respond to their requests for admission; and, by operation of Fed. R. Civ. P. 36, certain matters have been deemed admitted and the admissions are fatal to Topete's claims. FED. R. CIV. P. 36(a)(3); Jensen Decl., Ex. A. Plaintiffs' counsel having advised that no opposition will be filed, defendants' motion for summary judgment is granted.¹ There being no viable claims remaining in this case, the clerk shall enter judgment accordingly and close the file.

SO ORDERED.

Dated: May 18, 2011



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

¹ At the motion hearing, plaintiffs' counsel agreed that Topete's claims are, in any event, subject to dismissal for failure to prosecute. See FED. R. CIV. P. 41.

United States District Court

For the Northern District of California

1 5:10-cv-02342-HRL Notice has been electronically mailed to:

2 Adam Wang adamqwang@gmail.com, alpedersen@gmail.com, rosilenda@gmail.com

3 Adam Lee Pedersen alpedersen@gmail.com

4 Matthew James Jensen mjj@matthewjensenlaw.com

5 Counsel are responsible for distributing copies of this document to co-counsel who have not
6 registered for e-filing under the court's CM/ECF program.